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BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

FEB 15 2001

SECRETARY, BOARD OF  
OIL, GAS & MINING

IN THE MATTER OF THE REQUEST FOR AGENCY )  
ACTION OF RIVER GAS CORPORATION FOR AN )  
ORDER EXTENDING THE BOARD'S ORDER )  
ENTERED IN CAUSE NO. 243-2 TO SUSPEND )  
APPLICATION OF THE BOARD'S ORDER ENTERED )  
IN CAUSE NO. 137-2(B) AND UTAH ADMIN. )  
CODE RULE R649-3-2 INSOFAR AS THEY )  
PERTAIN TO LANDS ADDED TO THE DRUNKARDS )  
WASH FEDERAL EXPLORATORY UNIT VIA ITS )  
SIXTH EXPANSION, COVERING PORTIONS OF )  
TOWNSHIP 13 SOUTH, RANGE 9 EAST, )  
TOWNSHIP 14 SOUTH, RANGES 8 AND 9 EAST, )  
AND TOWNSHIP 15 SOUTH, RANGES 8 AND 10 )  
EAST, SLM, CARBON COUNTY, UTAH )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

Docket No. 2001-002

Cause No. 243-6

This cause came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, January 24, 2001, at the hour of 10:00 a.m. The following Board members were present and participated at the hearing: Chairman Dave D. Lauriski, J. James Peacock, Raymond Murray, Elise L. Erler, Allan Mashburn, and Stephanie Cartwright. At the commencement of the hearing, Board member Thomas B. Faddies, citing a potential conflict of interest, recused himself and did not participate. Attending and participating on behalf of the Division of Oil, Gas and Mining (the "Division") was John Baza, Associate Director - Oil and Gas. The Board and the Division were represented by Thomas A. Mitchell, Esq., and Kurt Seel, Esq., Assistant Attorneys

General, respectively. Attending and participating on behalf of the Bureau of Land Management ("BLM") was Robert Henricks, Chief-Branch of Fluid Minerals, Utah State Office. Attending and participating on behalf of the Utah School and Institutional Trust Lands Administration ("SITLA") was LaVonne J. Garrison, Assistant Director – Oil and Gas.

Testifying on behalf of Petitioner Phillips Petroleum Company ("Phillips") were Joseph L. Stephenson – Landman, and John M. Hollingshead – Petroleum Engineer. Frederick M. MacDonald, Esq., Pruitt, Gushee & Bachtell, appeared as attorney on behalf of Phillips.

At the conclusion of Phillips' presentation, the Division, BLM and SITLA all expressed their support of the Request for Agency Action. No other statements were made at the hearing in opposition of the Request for Agency Action and no other parties appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause appearing, hereby makes the following findings of fact, conclusions of law, and order.

#### **FINDINGS OF FACT**

1. Effective December 31, 2000 at 11:59 p.m., River Gas Corporation, the original petitioner in this matter, merged into Phillips. Phillips is a Delaware corporation

in good standing and is authorized to conduct business in the State of Utah. Phillips currently serves as operator of the Drunkards Wash Federal Exploratory Unit (the "Unit").

2. The following Carbon County, Utah lands were added to the Unit via its sixth expansion effective as of May 1, 2000:

Township 13 South, Range 9 East, SLM

Section 25: W½  
Section 26: All  
Section 27: All  
Section 28: All  
Section 29: All  
Section 30: NE¼  
Section 32: All  
Section 33: All  
Section 34: All  
Section 35: All  
Section 36: W½

Township 14 South, Range 8 East, SLM

Section 15: All  
Section 16: SE¼  
Section 21: All  
Section 22: All  
Section 27: All  
Section 28: All  
Section 33: Lots 1 (43.00), 2 (43.00),  
3 (40.90), 4 (40.90), 5 (38.86),  
6 (38.97), 7 (39.73) and 8 (39.85),  
N½ [All]  
Section 34: All

Township 14 South, Range 9 East, SLM

Section 1: Lots 3 (40.85) and 4 (41.19),  
S½NW¼, SW¼ [W½]

Township 15 South, Range 8 East, SLM

Section 4: Lots 1 (5.88), 2 (5.98), 3 (6.06),  
4 (6.16), 5 (40.00), 6 (40.00),  
7 (40.00), 8 (40.00), 9 (40.00),  
10 (40.00), 11 (40.00) and 12 (40.00),  
S½ [All]

Section 9: All

Section 16: All

Township 15 South, Range 10 East, SLM

Section 9: All

Section 16: All

(hereinafter the "Expansion Lands").

3. Under the terms of the governing Unit Agreement for the Unit, all oil and gas in all geologic formations of tracts committed to the Unit, including those within the Expansion Lands, are unitized. Paragraph 16 of the Unit Agreement expressly requires Phillips, as Unit operator, to produce unitized substances, and conduct all operations to provide for the most economical and efficient recovery of said substances, without waste, as defined by or pursuant to State or Federal law or regulation.

4. Well location and density patterns within the Unit area are determined in accordance with the terms of the Unit Agreement and, in particular, the annual plans of

Unit development approved by the BLM. Drilling applications are approved by both the BLM and DOGM.

5. The conservation of oil and gas and the prevention of waste is accomplished by operations conducted in accordance with the terms of the Unit Agreement.

6. By Order entered on February 25, 1982 in Cause No. 137-2(B), the Board established 160 acre (or substantial equivalent thereof) drilling and spacing units for the production of gas from the Ferron, Mancos, Dakota and Morrison formations underlying the following lands which are within the Expansion Lands:

Township 15 South, Range 10 East, SLM

Section 9: All

Section 16: All

(hereinafter the "137-2(B) Lands"), among other lands, and decreed that all future wells be drilled no closer than 1,000 feet from a drilling unit boundary.

7. All remaining Expansion Lands currently are not covered by any Board spacing order and are therefore ostensibly subject to the general statewide well location rule set forth in Utah Admin. Code Rule R649-3-2.

8. By Order entered on July 13, 1999 in Cause No. 243-2, the Board suspended application of all existing spacing orders, including its Order entered in Cause No. 137-2(B), and of Utah Admin. Code Rule R649-3-2, as to all lands then within the Unit area; provided, however, that no future well may be located less than 460 feet from the

boundary of the Unit area or from the boundary of an uncommitted tract within the Unit area without administrative approval of the Division in accordance with Utah Admin. Code Rule R649-3-3. Upon Unit contraction or termination, the applicable spacing orders or the well siting rule once again would apply.

9. The geologic and reservoir characteristics of the Expansion Lands are similar to those of the remaining lands within the Unit area. Additionally, topographical and wildlife restrictions, which served in part to justify the relief granted under the Board Order in Cause No. 243-2, exist in the Expansion Lands.

10. Given the findings outlined above and to ensure continuity and uniformity, extension of the Board's Order in Cause No. 243-2 to include the Expansion Lands is fair, reasonable and justified; specifically, the suspension of the Board's Order entered in Cause No. 137-B(2) as to the 137-B(2) Lands defined herein and of Utah Admin. Code Rule R643-3-2 as to the remaining lands within the Expansion Lands; provided, however, that no future well may be drilled closer than 460 feet from the boundary of the expanded Unit area or from the boundary of any uncommitted tract within the expanded Unit area without administrative approval of the Division in accordance with Utah Admin. Code Rule R649-3-3. Furthermore, the suspension shall remain in effect only for so long as the Expansion Lands remain part of the Unit.

11. A copy of the Request for Agency Action was mailed to all owners within the drilling units offsetting the Expansion Lands created under existing Board Orders, including the Orders in Cause Nos. 137-2(B) and 243-1, and to all unleased, uncommitted owners within the Expansion Lands as disclosed by the appropriate Federal, State and County realty records.

12. Notice was duly published as required by Utah Admin. Code Rule R641-106-100.

13. The vote of the Board members present in the hearing and in this cause was unanimous in favor of granting the Request for Agency Action.

#### CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purpose of the hearing was properly given to all interested parties in the form and manner as required by law and the rules and regulations of the Board and Division.

2. The Board has jurisdiction over all matters covered by the Request for Agency Action and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. § 40-6-5(3)(b) and Utah Admin. Code Rule R649-2-3.

3. The Request for Agency Action satisfies all statutory and regulatory requirements for the relief sought therein and should be granted.

## ORDER

Based upon the Request for Agency Action, testimony and evidence submitted, and the findings of fact and conclusions of law state above, the Board hereby orders:

1. The Request for Agency Action in this cause is granted.
2. The Board's Order in Cause No. 243-2 is hereby extended to apply to the Expansion Lands; to wit:

- (a) the Board's Order entered in Cause No. 137-2(B), as to the 137-2(B) Lands (as defined herein), and Utah Admin. Code Rule R649-3-2, as to the remaining lands within the Expansion Lands, are suspended. Upon Unit contraction or termination, any Expansion Lands eliminated from the Unit shall once again become subject to the Board's Order in Cause No. 137-2(B) or Utah Admin. Code Rule R649-3-2, as applicable; and
- (b) no future well may be located closer than 460 feet from the boundary of the expanded Unit area or from the boundary of an uncommitted tract within the expanded Unit area without administrative approval of the Division in accordance with Utah Admin. Code Rule R649-3-3.

3. Pursuant to Utah Admin. Code Rule R641 and Utah Code Ann. § 63-46b-6 to -10, the Board has considered and decided this matter as a formal adjudication.



4. This Findings of Fact, Conclusion of Law and Order ("Order") is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code Rule R641-109.

5. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63-46b-10(e) to -10(g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. § 63-46b-14(3)(a) and -16. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. 63-46b-13, entitled, "Agency review - Reconsideration," states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

*Id.* The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, "Rehearing and Modification of Existing Orders," states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10<sup>th</sup> day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15<sup>th</sup> day of the month.

*Id.* See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63-46b-13 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for

rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

7. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this 14<sup>th</sup> day of February, 2001.

**STATE OF UTAH  
BOARD OF OIL, GAS AND MINING**

By: 

Dave D. Lauriski, Chairman

### CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Docket No. 2001-002, Cause No. 243-6 to be mailed with postage prepaid, this 16 day of February, 2001, to the following:

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